

10:32 am, Feb 28, 2018

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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UFCW LOCAL 50 PENSION FUND, LARRY  
MAGARIK *As Sole Trustee Of The UFCW*  
*Local 50 Pension Fund,*

Plaintiff,

-against-

FOOD DEPOT, INC. *f/k/a Ward's*  
*Manufacturing, Inc.*, JOHN DOE COMPANY,

Defendant(s).

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**APPEARANCES:**

**Cohen, Weiss & Simon, LLP**

*Attorneys for the Plaintiffs*

330 W. 42nd Street, 25th Floor

New York, NY 10036

By: David Ronald Hock, Esq., Of Counsel

**NO APPEARANCES:**

**Food Depot, Inc. f/k/a Ward's Manufacturing, Inc., John Doe Company**

*The Defendants*

**SPATT, District Judge:**

On December 14, 2016, the Clerk of the Court noted the default of the Defendant Food Depot Inc. f/k/a Ward's Manufacturing Inc. (the "Defendant"). On May 1, 2017, the Plaintiffs UFCW Local 50 Pension Fund, and Larry Magarik as the Sole Trustee Of The UFCW Local 50 Pension Fund (collectively, the Plaintiffs") filed a motion for default judgment.

On May 1, 2017, the Court referred the Plaintiffs' motion to United States Magistrate Judge Steven I. Locke for a report and recommendation.

On February 7, 2018, Judge Locke issued a report and recommendation (the "R&R"), recommending that the Plaintiffs' motion be granted in part, and denied in part. Specifically, the

R&R recommended that the portion of the motion seeking outstanding withdrawal liability be granted and that Plaintiff be awarded \$680,955.00; denied as to the portions seeking prejudgment interest and liquidated damages with leave to renew upon submission of the appropriate supporting documentation; and that Plaintiffs be awarded \$9,680.00 in attorneys' fees and \$617.20 in costs, for a total sum of \$691,252.20.

It has been more than fourteen days since the service of the R&R, and the parties have not filed objections.

As such, pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the R&R for clear error, and finding none, now concurs in both its reasoning and its result. See Coburn v. P.N. Fin., No. 13-CV-1006 (ADS) (SIL), 2015 WL 520346, at \*1 (E.D.N.Y. Feb. 9, 2015) (reviewing Report and Recommendation without objections for clear error).

This order does not close the case, as the Plaintiffs have renewed their motion for liquidated damages.

**SO ORDERED.**

Dated: Central Islip, New York

February 28, 2018

/s/ Arthur D. Spatt  
ARTHUR D. SPATT  
United States District Judge